



FAX TRANSMISSION

To: (b) (6)

Date: 1/20/2004

Fax #: (b) (6)

Pages: 3, including this cover sheet.

From: K. Townsend-McIntyre

Subject: PDG Inc - Changes made to CA

COMMENTS:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Subject: Toxic Substances Control Act
Project Development Group, Inc.,
Docket No. CAA-03-2004-0009
Consent Agreement and Final Order

From: Kyla L. Townsend-McIntyre, Enforcement Officer *KLM*
Pesticides/Asbestos Programs & Enforcement Branch (3WC32)

To: James J. Burke, Director
Waste & Chemicals Management Division (3WC00)

William C. Early, Regional Counsel
Office of Regional Counsel (3RC00)

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ATTORNEY WORK PRODUCT PRIVILEGED
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This memo is for concurrence purposes only and should not be sent to the Regional Administrator to avoid an improper ex parte communication with him about the merits of the case

The attached Consent Agreement and Final Order were issued to Project Development Group, Inc. ("Respondent") pursuant to Section 113(d) of the Clean Air Act ("CAA" or the "Act"), as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice") (40 C.F.R. Part 22) (with specific reference to the Consolidated Rules of Practice to be published at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)). This Consent Agreement and the accompanying Final Order (collectively referred to herein as the "CAFO") address violations by Respondent of section 112 of the Act and the federal regulations implementing the National Emission Standards for Hazardous Air Pollutants for asbestos ("Asbestos NESHAP"), as set forth at 40 C.F.R. Part 61, Subpart M. This CAFO was negotiated without the issuance of a complaint pursuant to 40 CFR § 22.13(b) which allows parties that agree to settle one or more causes of action to commence and conclude the proceedings by issuing a CAFO before the filing of a complaint.

I. ALLEGED VIOLATION

Section 112 of the CAA, 15 U.S.C. § 7412 provides, in relevant part, that if it is not feasible in the judgement of the Administrator to prescribe or enforce an emission standard for control of a hazardous air pollutant or pollutants, the Administrator may, in lieu thereof, promulgate a design, equipment, work practice, or operational standard, or combination thereof. The provisions set forth pursuant to 40 C.F.R. Part 61, Subpart M, promulgate design, work practice and operational standards for

owners and operators that conduct demolition and renovation projects involving Regulated Asbestos Containing Material ("RACM").

The Associate Director of Enforcement of the Waste and Chemicals Management Division of the U.S. Environmental Protection Agency (EPA) Region III issued a Super CAFO to Project Development Group, Inc., on November 17, 2003. The consent order specifically alleged that Respondent, as operator of asbestos removal projects conducted at US Steel - Clairton Works - Benzol Water Treatment Plant ("US Steel") located at 400 State Street, Clairton, Pennsylvania, violated the asbestos NESHAP by:

failing to provide timely written asbestos notification of intention to demolish to EPA in violation of the requirements 40 C.F.R. § 61.145(b)(3)(i).

II. PROPOSED PENALTY

The CAA Stationary Source Civil Penalty Policy, Appendix III - the Asbestos Demolition and Renovation Civil Penalty Policy (the "Policy") provides that any owner or operator that carries out any activity prohibited by 40 C.F.R. § 61.145(b) is liable for a civil penalty of not more than \$200.00 for a late, incomplete or inaccurate notice for the first violation on or before January 30, 1997. Violations occurring after January 30, 1997 may be assessed a civil penalty in an amount not to exceed \$220.00 in accordance with 40 C.F.R. Part 19, Adjustment of Civil Monetary Penalties for Inflation (promulgated pursuant to the Debt Collect Improvement Act of 1996).

EPA's revised Asbestos Demolition and Renovation Civil Penalty Policy (the "Policy") calls for among other things, the issuance of civil complaints to owners and operator who do not comply with asbestos NESHAP. The Region calculated the gravity-based penalty by the Policy which provides a one-time penalty of \$200 for each late, incomplete or inaccurate notice.

I. Gravity Component.

A. Violations.

<i>Violation:</i> 40 C.F.R. § 61.145(b)	
<i>Proposed Penalty -</i>	\$ 220.00

<u>TOTAL PROPOSED PENALTY:</u>	<u>\$ 220.00</u>
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III. RECOMMENDED PENALTY SETTLEMENT

In full settlement of the violations, the litigation team and the Respondent have agreed that two hundred and twenty dollars (\$220.00), is an appropriate penalty amount to resolve the violations, based on the CAA Penalty Policy.

After you have signed the transmittal letter to the Regional Presiding Judicial Officer, please return all documents to the Office of Regional Counsel for further processing.